



US Army Corps
of Engineers

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: **25533N**

DATE: **June 23, 2003**

RESPONSE REQUIRED BY: **July 23, 2003**

PERMIT MANAGER: Mark D'Avignon

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1. **INTRODUCTION:** Mr. Doug Sherer, Reneson Hotel Group, 121 7th Street, San Francisco, California 94103, ((415)864-0287) [Contact: John Zentner, Zentner and Zentner, 95 Linden Street, Ste. 6, Oakland, CA 94607, 510-622-8110] has applied for a Department of the Army permit to place 9,000 cubic yards of clean earthen fill into a former stormwater pond that includes 0.65 acre of jurisdictional waters of the United States for the purpose of providing additional parking for the businesses on site. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

2. PROJECT DESCRIPTION:

a. **Project Site** – The Corte Madera Inn is located in Corte Madera in central Marin County, California immediately east of Highway 101 about 0.25 miles north of the Madera Boulevard exit of the Highway. The pond is adjacent to and immediately north of Max's restaurant (Figure 1). Access to the pond is from the restaurant parking lot.

The site is located at and partially within the western edge of the historic edge of the San Francisco Bay and rests on low, relatively level ground. It is surrounded by urban landscapes with the hotel adjacent to the north, west, and south sides and with Highway 101 on the east side.

The pond was part of Corte Madera's stormwater drainage and flood control system and is connected through slide gates to a drainage ditch running along the Highway and to Lagoon No. 1 to the west (Figure 1). In 1987, it was determined that the pond was no longer needed for storm drainage purposes and the Town of Corte Madera (through its Flood Control Board) approved filling of the pond by the Inn. The Corps issued a permit in 1985 to fill the pond, but the project was never completed and the Corps permit expired.

Water quality in the pond is poor. The water sources are generally of relatively low quality and the lack of circulation in the pond concentrates pollutants. The pond has no vascular wetland vegetation and the banks of the pond are dominated by non-native, planted species, such as pines, oleander, and pampas grass. Wildlife use of the pond is highly limited, compared to nearby bodies of water. Two, year-long bird surveys found little use of the pond by birds.

b. **Proposed Project** – The Corte Madera Inn is an approximately 6-acre site including a 110-unit hotel and 300-seat capacity restaurant (Max's). The Inn grounds include landscaping, a swimming pool and the 0.65-acre pond. The applicant proposes to fill the pond to provide for needed additional parking and landscaping.

The pond would be filled with approximately 9,000 cubic yards of clean fill material. Storm drains that once emptied into the pond will be culverted under

the fill and would connect to the storm drain that drains the pond. A parking lot would be constructed on top of the fill to provide 27 spaces for Inn and Restaurant parking. Landscaping around the lot would consist principally of native, drought resistant plant material with minimal irrigation needs.

c. **Purpose and Need** – Over the past three years, Corte Madera Inn occupancy has averaged 90% (an increase of about 15%); the Inn is one of the few in this area and as the economy and local and regional populations and business activity levels have increased, so has demand for hotel space. The conversion of the Peppermill Restaurant to Max's, a higher volume restaurant, has also increased demand for parking substantially.

d. **Mitigation** – The applicant proposes to mitigate for project impacts at the Burdell Ranch Wetland Conservation Bank located on lowlands in northeastern Marin County adjacent to near Gness Field. The bank is an approved mitigation instrument for mitigation requirements and the project site occurs within the service area of the bank. The project site also does not meet any of the exclusionary policies of the bank which provide that areas of vernal pool or tidal habitats not be mitigated for at the bank.

The Bank's Memorandum of Agreement states that projects that effect habitats of lower value than the wetlands to be constructed on the bank will be compensated for at a 1:1 ratio (constructed to lost). The pond at the Inn is of lower habitat value than the wetlands to be constructed at the bank site. Accordingly, the applicant will purchase and utilize 0.70 acre of mitigation credit at the bank.

3. **STATE APPROVALS:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification or waiver before a Corps

permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the San Francisco Bay Region Regional Water Quality Board. No Corps permit will be granted until the applicant obtains the required certification or waiver. A waiver shall be explicit, or it will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period of this public notice.

4. **ENVIRONMENTAL ASSESSMENT:** The Corps of Engineers will assess the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers. The documents used in the preparation of the Environmental Assessment will be on file in the Regulatory Branch, Corps of Engineers, 333 Market Street, San Francisco, California.

5. **EVALUATION OF ALTERNATIVES:**

Evaluation of this activity's impacts includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water

Act (33 U.S.C. 1344(b)). An evaluation under the 404(b)(1) Guidelines indicates that the project is not water/wetland dependent. However, the applicant has submitted an Analysis of Alternatives for the project and it will be reviewed for compliance with the Guidelines. The applicant states that there are no practicable alternative for his project. The Analysis of Alternatives is available for review in our office. Evaluation of this activity's impact on the public interest will also include application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act, 33 U.S.C. Section 1344(b).

6. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

8. SUBMISSION OF COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to the Regulatory Branch. It is Corps policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this notice, or by contacting Mark D'Avignon of our office at (415)-977-8507 or email: mdavignon@spd.usace.army.mil. Details on any changes of a minor nature which are made in the final permit action will be provided on request.

